

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B": HYDERABAD
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

ITA Nos. 1600, 1601 & 1602/HYD/2017 Assessment Years: 2011-12, 2012-13 & 2013-2014		
Andhra Pradesh Housing Board, Vijayawada. PAN - AAAAA 5028R (Appellant)	Vs.	Asst. Commissioner of Income-tax, Circle - 5(1), Hyderabad. (Respondent)
Assessee by:		Shri M. Deepak for Shri d. Ranganath Kumar
Revenue by:		Shri YVST Sai
Date of hearing:		02/03/2022
Date of pronouncement:		04/03/2022

ORDER

PER BENCH:

These three appeals filed by the assessee are directed against CIT(A) - 4, Hyderabad's separate orders, all dated 28/06/2017 for AYs 2011-12 to 2013-14 involving proceedings u/s 144 r.w.s 147 of the Income Tax Act, 1961 ; in short "the Act". As the facts and grounds are identical in these appeals, the same were clubbed and heard together and, therefore a common order is passed for the sake of convenience.

2. Briefly, the facts as taken from AY 2011-12 being ITA No. 1600/Hyd/2017 are that during the course of assessment proceedings the AO observed as under:

1. The appellant failed to file the return as required under the income tax Act for AY 2011-12, although, a notice u/s 148 was issued.

2. Appellant failed to comply with the notice u/s 142(1) served on 18/12/2015.

3. Appellant was noticed about completion of assessment order u/s 144, but, there was no compliance. This led to completion of assessment on the basis of information collected from bank exparte.

4. The AO collected all credits in the bank amounting to Rs. 360.46 crores as listed in page - 4 of the assessment order and allowed expenditure at 6% of the gross deposit and determined the income at Rs. 338.83 crores u/s 144 of the IT Act.

3. When the assessee preferred an appeal before the CIT(A), the CIT(A) directed the AO to consider the amount of Rs. 160,36,56,129/- as gross receipts and allow 6% of expenditure and work out the taxable income vide para Nos. 7.3 & 7.3.1 of his order.

4. Aggrieved by the order of CIT(A), the assessee is in appeal before the ITAT.

5. In all these appeals, the assessee has raised in as much as 23 grounds. However, at the time of hearing before us, the ld. AR of the assessee submitted that the AO has passed ex-parte order u/s 144 rws 147 of the Act and, therefore, the Assessee did not get opportunity to present its case before the AO on merits. He, therefore, requested to the Bench to remit these appeals to the file of the AO to represent its case with documentary evidence and on merits. The ld. AR undertook to produce all the relevant documents to substantiate assessee's cases before the AO.

6. The ld. DR, on the other hand, objected to the submissions of the ld. AR for remitting the appeals back to the file of the AO on the ground that the assessee failed to comply with the notices issued by the AO and failed to furnish the details of all bank accounts and their statements and P&L, balance sheet and books of account against the notice issued by the AO u/s 142(1) calling for the above details. He, therefore, submitted that the AO compelled to complete the assessments u/s 144 rws 147 of the Act. He relied on the decision of coordinate bench of this Tribunal in assessee's own case in ITA Nos. 717, 715, 1218, 1217, 1216 & 1292/Hyd/2012, order dated 31/05/2013, which is placed in the paper book filed by the ld. DR before the ITAT.

7. We have considered the submissions of both the parties and perused the material on record as well as gone through the orders of revenue authorities. Both the counsels have relied on the orders passed by the coordinate bench of this Tribunal in assessee's own case for earlier years, copies of which are filed on record. We are of the view that interest of justice will be served if the matter is restored to the file of the AO for deciding various grounds of appeal of the assessee on merits in all the appeals under consideration. Accordingly, the AO is directed to afford opportunity of being heard to the assessee and thereafter decide the appeals on merits in accordance with law. We direct the assessee to appear before the AO with all the relevant evidences to substantiate its claim; at its own risk and responsibility to be followed by three effective opportunities of hearing.

8. In the result, appeals of the assessee are treated as allowed for statistical purposes in above terms.

Pronounced in the open court on 4th March, 2022.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-
(L. P. SAHU)
ACCOUNTANT MEMBER

Hyderabad, Dated: 4th March, 2022.

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Copy to :

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2	<i>ACIT, Circle – 5(1), 3rd Floor, D Block, IT Towers, Masab Tank, AC Guards, Hyderabad.</i>
3	<i>CIT(A) - 4, Hyderabad.</i>
4	<i>PR. CIT – 4, Hyderabad.</i>
5	<i>ITAT, DR, Hyderabad.</i>
6	<i>Guard File.</i>